IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CHRISTOPHER KELLEY,   §
                                           §
              Plaintiffs,   §
v.   §   Civil Action No**. 3:21-CV-15-L-BH**
                                           §
MERRICK GARLAND, Attorney General,   §
U.S. Department of Justice,   §
                                           §
              Defendant.   §

ORDER

On May 23, 2023, the Findings, Conclusions and Recommendation of the United States

Magistrate Judge (Doc. 23) ("Report") was entered, recommending that the court grant in part and

deny in part Defendant's Motion to Dismiss (Doc. 17).   In this regard, the Report recommends as
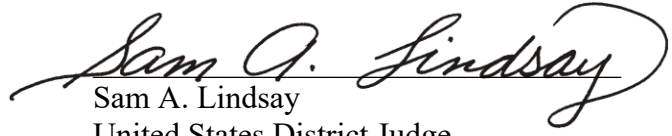
follows:

> Plaintiff's Title VII claim and Rehabilitation Act claim based on untimely
> conversion should be **DISMISSED without prejudice** for failure to exhaust[]
> administrative remedies, and his FMLA claim should be **DISMISSED with
> prejudice** for failure to state a claim. Plaintiff should be allowed to proceed to trial
> on his Rehabilitation Act claim relating to his non-selection for the BOP's Texas
> paralegal position and reasonable accommodation requests relating to that position.

Report 17.   No objections to the Report were filed, and the deadline for doing so has expired.

Having considered the Motion to Dismiss, briefs, pleadings, the file, Report, and record in

this case, the court determines that the magistrate judge's findings and conclusions are correct, and

accepts them as those of the court. Accordingly, the court **grants in part and denies in part**

Defendant's Motion to Dismiss (Doc. 17). Plaintiff's Title VII claim and Rehabilitation Act claim

based on untimely conversion are **dismissed without prejudice** for failure to exhaust

administrative remedies, and his FMLA claim is **dismissed with prejudice** for failure to state a

claim upon which relief can be granted. Plaintiff will be allowed to proceed to trial on his

Rehabilitation Act claim relating to his non-selection for the BOP's Texas paralegal position and

reasonable accommodation requests relating to that position.

It is so ordered this 14th day of June, 2023.

Sam A. Lindsay
United States District Judge

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